

Remarks

The Office Action mailed May 2, 2007, and made final, has been carefully reviewed and the following remarks are submitted in consequence thereof.

Claims 1-17 are pending in this application. Claims 1-16 stand rejected. Claim 17 is newly added. Applicants submit that no new matter has been added.

The rejection of Claims 1, 5, 6 and 11 under 35 U.S.C. § 112 is respectfully traversed. Specifically, Claims 1, 5, 6, and 11 have been amended to address the issues raised by the Examiner in the Office Action. Accordingly, Applicants request that the Section 112 rejections of Claim 1, 5, 6 and 11 be withdrawn.

The rejection of Claims 1-16 under 35 U.S.C. § 102(e) as being anticipated by Fox et al. (U.S. Publication No. 20010034701) (hereinafter referred to as "Fox") is respectfully traversed.

Applicants respectfully submit that Fox does not describe or suggest the claimed invention. In particular, it does not appear that Fox relates to or describes assessing a loan portfolio of non-performing loans. Rather, Fox describes a system that provides operating statement data entry services, portfolio management and analysis tools, loan compliance tracking and CMSA industry standard reporting (see abstract). Accordingly, Fox merely describes loan portfolio management, and does not specifically describe assessing a loan portfolio of non-performing loans.

Moreover, Fox fails to describe or suggest several limitations of the claimed invention. Specifically, Fox does not describe or suggest identifying a current milestone for each loan included within a portfolio at a selected time of assessment from a series of predefined milestones, wherein the series of predefined milestones represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent, closed, closed delinquent, paid-in-full, and foreclosed; populating a spreadsheet that identifies a current milestone and a cumulative variance between planned collections and actual collections at the current milestone for each loan; creating a business plan for each loan included within the portfolio including planned collections and timing of collections for each

loan; segmenting the loan portfolio based on at least one characteristic assigned to each loan; and determining a contribution of a portfolio segment to an overall cumulative loan portfolio variance, wherein the portfolio segment includes each loan included within the portfolio having an assigned characteristic that correlates with a loan characteristic selected by a user for analysis.

The Office Action asserts that column 3, paragraph 28, column 4, paragraphs 47-48, column 6, paragraphs 66-69, and column 8, claim 23 each describe identifying a milestone for each loan included within a portfolio at a selected time of assessment and populating a spreadsheet identifying a current milestone and a cumulative variance between planned collections and actual collections at the current milestone for the loan. Applicants respectfully traverse this assertion. Rather, in contrast to the claimed invention, column 3, paragraph 28 describes portfolio management reports that include financial statements, status reports, and collateral reports; column 4, paragraphs 47-48 describe a portfolio emissary that includes a name, a trustee, a number of loans, servicers, and a manager; column 6, paragraphs 66-69 describe forms that enable a user to view historical scheduled and actual loan payments, monthly debt service and replacement reserve payments, and an annual amount of debt service; and claim 23 merely describes tracking a real estate loan. In other words, Fox merely describes tracking outstanding loans and loan payments.

Applicants submit that portfolio management reports, portfolio emissaries, and loan payment forms are not milestones of a non-performing loan. More specifically, they are not milestones that represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent, closed, closed delinquent, paid-in-full, and foreclosed, as is recited in the currently amended claims. Moreover, Applicants submit that merely describing generating management reports, portfolio emissaries, and loan payment forms does not describe or suggest populating a spreadsheet that identifies a current milestone and a cumulative variance between planned collections and actual collections at the current milestone for a loan. Accordingly, Fox does not describe or suggest identifying a current milestone for each loan included within a portfolio at a selected time of assessment from a series of predefined milestones, wherein the series of predefined milestones represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent,

closed, closed delinquent, paid-in-full, and foreclosed; and populating a spreadsheet that identifies a current milestone and a cumulative variance between planned collections and actual collections at the current milestone for each loan, as is recited in the currently amended claims.

The Office Action further asserts that column 3, paragraph 28, column 4, paragraphs 47-48, column 6, paragraphs 66-69, and column 8, claim 23 each describe segmenting a loan portfolio based on at least one characteristic assigned to each loan. Applicants respectfully traverse this assertion. As set forth above, the cited portions of Fox merely describe tracking outstanding loans and loan payments. Applicants submit that describing generating portfolio management reports, portfolio emissaries, and loan payment forms does not describe or suggest segmenting a loan portfolio based on at least one characteristic assigned to each loan. Moreover, Fox does not describe or suggest determining a contribution of a portfolio segment to an overall cumulative loan portfolio variance, wherein the portfolio segment includes each loan included within the portfolio having an assigned characteristic that correlates with a loan characteristic selected by a user for analysis, as is recited in the currently amended claims. In addition, Fox does not describe or suggest populating a spreadsheet with a current milestone and a cumulative variance between planned collections and actual collections at the current milestone for a loan segment, as is recited in newly added Claim 17.

Also, Fox does not describe or suggest creating a business plan for each loan included within a portfolio including planned collections and timing of collections for each loan, as is recited in the currently amended claims. Rather, as set forth above, Fox merely describes tracking outstanding loans and generating portfolio reports. Applicants submit that merely describing tracking outstanding loans and generating portfolio reports does not describe or suggest creating a business plan for each loan included within a portfolio including planned collections and timing of collections for each loan. More specifically, it does not describe or suggest creating a business plan for non-performing loans, as is recited in the currently amended claims.

Accordingly and for at least the reasons set forth above, Applicants respectfully submit that the present patent application is patentable over Fox. Specifically, in contrast to the present invention, Fox describes a financial information management system and business process that is designed to perform property servicing of commercial loans. The system

includes a comprehensive central data repository and software applications that provide users with a common interface to established business operations. The primary function of the system is to warehouse operating data on individual properties and report operating data in conjunction with the administration of commercial and multi-family real estate loans. The system serves as an enterprise-wide system providing operating statement data entry services, portfolio management and analysis tools, loan compliance tracking and CMSA industry standard reporting.

Claim 1 recites a method for assessing a loan portfolio comprising a plurality of non-performing loans, said method comprising the steps of “assigning at least one characteristic to each loan included within the portfolio including at least one of size of outstanding balance, nature of collateral security, lien information, historical payment performance, litigation status, and underwritten valuation...identifying a current milestone for each loan included within the portfolio at a selected time of assessment from a series of predefined milestones, wherein the series of predefined milestones represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent, closed, closed delinquent, paid-in-full, and foreclosed...creating a business plan for each loan included within the portfolio including planned collections and timing of collections for each loan...segmenting the loan portfolio based on the at least one characteristic assigned to each loan...determining planned collections for each loan for the selected time of assessment...determining actual collections for each loan for the selected time period of assessment...populating a spreadsheet identifying the current milestone and a cumulative variance between planned collections and actual collections at the current milestone for each loan...determining a contribution of a portfolio segment to an overall cumulative loan portfolio variance, wherein the portfolio segment includes each loan included within the portfolio having an assigned characteristic that correlates with a loan characteristic selected by a user for analysis.”

Applicants respectfully submit that Fox does not describe or suggest a method as is recited in Claim 1. More specifically, Fox does not describe or suggest identifying a current milestone for each loan included within a portfolio at a selected time of assessment from a series of predefined milestones, wherein the series of predefined milestones represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent,

closed, closed delinquent, paid-in-full, and foreclosed; populating a spreadsheet that identifies a current milestone and a cumulative variance between planned collections and actual collections at the current milestone for each loan; creating a business plan for each loan included within the portfolio including planned collections and timing of collections for each loan; segmenting the loan portfolio based on at least one characteristic assigned to each loan; and determining a contribution of a portfolio segment to an overall cumulative loan portfolio variance, wherein the portfolio segment includes each loan included within the portfolio having an assigned characteristic that correlates with a loan characteristic selected by a user for analysis.

The Office Action asserts that column 3, paragraph 28, column 4, paragraphs 47-48, column 6, paragraphs 66-69, and column 8, claim 23 each describe identifying a milestone for each loan included within a portfolio at a selected time of assessment and populating a spreadsheet identifying a current milestone and a cumulative variance between planned collections and actual collections at the current milestone for the loan. Applicants respectfully traverse this assertion. Rather, in contrast to the claimed invention, column 3, paragraph 28 describes portfolio management reports that include financial statements, status reports, and collateral reports; column 4, paragraphs 47-48 describe a portfolio emissary that includes a name, a trustee, a number of loans, servicers, and a manager; column 6, paragraphs 66-69 describe forms that enable a user to view historical scheduled and actual loan payments, monthly debt service and replacement reserve payments, and an annual amount of debt service; and claim 23 merely describes tracking a real estate loan. In other words, Fox merely describes tracking outstanding loans and loan payments.

Applicants submit that portfolio management reports, portfolio emissaries, and loan payment forms are not milestones of a non-performing loan. More specifically, they are not milestones that represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent, closed, closed delinquent, paid-in-full, and foreclosed, as is recited in the currently amended claims. Moreover, Applicants submit that merely describing generating management reports, portfolio emissaries, and loan payment forms does not describe or suggest populating a spreadsheet that identifies a current milestone and a cumulative variance between planned collections and actual collections at the current milestone for a loan. Accordingly, Fox does not describe or suggest identifying a current

milestone for each loan included within a portfolio at a selected time of assessment from a series of predefined milestones, wherein the series of predefined milestones represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent, closed, closed delinquent, paid-in-full, and foreclosed; and populating a spreadsheet that identifies a current milestone and a cumulative variance between planned collections and actual collections at the current milestone for each loan, as is recited in the currently amended claims.

The Office Action further asserts that column 3, paragraph 28, column 4, paragraphs 47-48, column 6, paragraphs 66-69, and column 8, claim 23 each describe segmenting a loan portfolio based on at least one characteristic assigned to each loan. Applicants respectfully traverse this assertion. As set forth above, the cited portions of Fox merely describe tracking outstanding loans and loan payments. Applicants submit that describing generating portfolio management reports, portfolio emissaries, and loan payment forms does not describe or suggest segmenting a loan portfolio based on at least one characteristic assigned to each loan. Moreover, Fox does not describe or suggest determining a contribution of a portfolio segment to an overall cumulative loan portfolio variance, wherein the portfolio segment includes each loan included within the portfolio having an assigned characteristic that correlates with a loan characteristic selected by a user for analysis, as is recited in the currently amended claims.

Also, Fox does not describe or suggest creating a business plan for each loan included within a portfolio including planned collections and timing of collections for each loan, as is recited in the currently amended claims. Rather, as set forth above, Fox merely describes tracking outstanding loans and generating portfolio reports. Applicants submit that merely describing tracking outstanding loans and generating portfolio reports does not describe or suggest creating a business plan for each loan included within a portfolio including planned collections and timing of collections for each loan. More specifically, it does not describe or suggest creating a business plan for non-performing loans, as is recited in the currently amended claims.

Accordingly and for at least the reasons set forth above, Applicants respectfully submit that Claim 1 is patentable over Fox.

Claims 2-4 and 16 depend, directly or indirectly, from independent Claim 1 which is submitted to be in condition for allowance. When the recitations of Claims 2-4 and 16 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-4 and 16 are also patentable over Fox.

Claim 5 recites a database for a variance tracking system, wherein the database comprises a memory storage having data stored therein, the data comprising “at least one characteristic associated with each of a plurality of non-performing loans included within a loan portfolio, wherein the at least one characteristic assigned to each loan includes at least one of size of outstanding balance, nature of collateral security, lien information, historical payment performance, litigation status, and underwritten valuation...a current milestone for each of the plurality of loans, wherein the current milestone is included within a series of predefined milestones, wherein the series of predefined milestones represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent, closed, closed delinquent, paid-in-full, and foreclosed...a business plan for each of the plurality of loans including planned payments and timing of payments for each loan...segments of the loan portfolio based on the at least one characteristic assigned to each loan...actual payments for each loan...indexes of time associated with each planned payment and with each actual payment...a variance between each planned payment and each actual payment...a contribution of each portfolio segment to an overall cumulative loan portfolio variance, wherein each portfolio segment includes each loan included within the portfolio having an assigned characteristic that correlates with a loan characteristic selected by a user for analysis.”

Claim 5, as herein amended, recites a database for a variance tracking system comprising, among other things, a memory storage having data that is essentially similar to the data acquired using the steps recited in Claim 1. Thus, it is submitted that Claim 5 is patentable over Fox for at least the reasons that correspond to those given with respect to Claim 1.

Claim 6 recites a computer program for controlling operation of a computer to determine variance in a loan portfolio of non-performing loans, wherein the computer program is executable to control the computer to “assign at least one characteristic to each

loan included within the portfolio including at least one of size of outstanding balance, nature of collateral security, lien information, historical payment performance, litigation status, and underwritten valuation...associate each loan in the portfolio with one of a plurality of milestones, wherein the milestones represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent, closed, closed delinquent, paid-in-full, and foreclosed...create a business plan for each loan included within the portfolio including planned collections and timing of collections for each loan...segment the loan portfolio based on the at least one characteristic assigned to each loan...determine cumulative planned collections for each loan for a selected time of assessment...determine cumulative actual collections for each loan for the selected time period of assessment...determine a cumulative variance for each loan for the selected time period of assessment based on the cumulative planned collections and cumulative actual collections...determine a contribution of each portfolio segment to an overall cumulative loan portfolio variance, wherein each portfolio segment includes each loan included within the portfolio having an assigned characteristic that correlates with a loan characteristic selected by a user for analysis.”

Claim 6, as herein amended, recites a computer program for controlling operation of a computer to determine variance in a loan portfolio of non-performing loans, wherein the computer program is executable to control the computer to, among other things, perform steps essentially similar to those recited in Claim 1. Thus, it is submitted that Claim 6 is patentable over Fox for at least the reasons that correspond to those given with respect to Claim 1.

Claims 7-10 depend, directly or indirectly, from independent Claim 6 which is submitted to be in condition for allowance. When the recitations of Claims 7-10 are considered in combination with the recitations of Claim 6, Applicants submit that dependent Claims 7-10 are also patentable over Tarter.

Claim 11 recites a variance tracker system for tracking variance in a loan portfolio of non-performing loans, wherein the system comprises “a database comprising a memory storage having data stored therein, said data comprising at least one characteristic assigned to each loan including at least one of size of outstanding balance, nature of collateral security, lien information, historical payment performance, litigation status, and underwritten

valuation...a processor coupled to said database, said processor programmed to...associate each loan in the portfolio with a current milestone at a selected time of assessment from a series of predefined milestones, wherein the series of predefined milestones represent different stages that non-performing loans experience prior to resolution including at least one of not contacted, in negotiation, scheduled for approval, approved, approved delinquent, closed, closed delinquent, paid-in-full, and foreclosed...store a business plan within the database for each loan included within the portfolio including planned collections and timing of collections for each loan...segment the loan portfolio based on the at least one characteristic assigned to each loan...determine cumulative planned collections for each loan for a selected time of assessment...determine cumulative actual collections for each loan for the selected time period of assessment...determine a cumulative variance for each loan for the selected time period of assessment based on the cumulative planned collections and cumulative actual collections...determine a contribution of each portfolio segment to an overall cumulative loan portfolio variance, wherein each portfolio segment includes each loan included within the portfolio having an assigned characteristic that correlates with a loan characteristic selected by a user for analysis.”

Claim 11, as herein amended, recites a variance tracker system for tracking variance in a loan portfolio of non-performing loans, wherein the system comprises, among other things, a database comprising a memory storage having data that is essentially similar to the data recited in Claim 5 and acquired using the steps recited in Claim 1. Thus, it is submitted that Claim 11 is patentable over Fox for at least the reasons that correspond to those given with respect to Claims 1 and 5.

Claims 12-15 depend, directly or indirectly, from independent Claim 11 which is submitted to be in condition for allowance. When the recitations of Claims 12-15 are considered in combination with the recitations of Claim 11, Applicants submit that dependent Claims 12-15 are also patentable over Tarter.

For at least the reasons set for above, Applicants respectfully request that the Section 102 rejection of Claims 1-16 be withdrawn.

Newly added claim 17 depends from independent Claim 1, which is amended to be patentable over Fox. When the recitations of newly added Claim 17 are considered in

combination with the recitations of Claim 1, Applicants submit that newly added Claim 17 is likewise patentable over Fox.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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